

January 7, 1999

Mr. John Steiner
City of Austin
Law Department
P.O. Box 1088
Austin, Texas 78767-1088



OFFICE OF THE
ATTORNEY GENERAL
STATE OF TEXAS

OR99-0036

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 120898.

JOHN CORNYN
Attorney General

The City of Austin (the "city") received a request for all "appraisals of all parcels of land the Austin City Council has voted to purchase under Proposition 2." You claim that the requested appraisals may be withheld under section 552.105 of the Government Code. We have considered the exception you claim and have reviewed the document you have submitted.

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Section 552.105 excepts from disclosure information relating to:

(1) the location of real or personal property for a public purpose prior to public announcement of the project; or

(2) appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property.

Section 552.105 is designed to protect a governmental body's planning and negotiating position with regard to particular transactions. Open Records Decision Nos. 564 (1990), 357 (1982), 310 (1982). Information excepted under section 552.105 that pertains to such negotiations may be excepted so long as the transaction is not complete. Open Records Decision No. 310 (1982). Because this exception extends to "information pertaining to" the location, appraisals, and purchase price of property, it may protect more than a specific appraisal report prepared for a specific piece of property. Open Records Decision No. 564 (1990) at 2. For example, this office has concluded that appraisal information about parcels of land acquired in advance of others to be acquired for the same project could be withheld where this information would harm the governmental body's negotiating position with respect to the remaining parcels. *Id.* A

governmental body may withhold information "which, if released, would impair or tend to impair [its] 'planning and negotiating position in regard to particular transactions.'" Open Records Decision No. 357 (1982) at 3 (quoting Open Records Decision No. 222 (1979)).

You advise us that the city's program of land acquisition, including purchase negotiations, under Proposition 2 is ongoing. You state that the city is engaged in ongoing negotiations for the purchase of approximately 15,000 acres. You argue that

[t]he requested appraisals contain information directly related to the city's negotiating position with respect to its real estate acquisition program. For example, appraisals contain information about development potential, comparable sales data, commercial and financial information provided by the property owners and other sources. Premature release of the appraisal reports could also taint the process by which data is collected, and compromise the city's ability to obtain accurate data about the properties yet to be acquired.

Negotiations and property valuations are currently pending in connection with the acquisition of several additional fee tracts and conservation easements, all of which are contiguous to or very near tracts already under contract. The release of appraisals on the properties in this project could severely compromise the city's ability to negotiate the purchase of additional tracts on favorable terms and could jeopardize its ability to buy these tracts entirely.

After reviewing the submitted document and your arguments, we find that you may withhold the requested appraisals under section 552.105 at this time. ORD 564.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Don Ballard", written in a cursive style.

Don Ballard
Assistant Attorney General

Enclosures: Submitted documents

cc: Mr. Tim Lott
Metro Editor
Austin American-Statesman
P.O. Box 670
Austin, Texas 78767
(w/o enclosures)